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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/713,773	11/14/2003	Timothy J. Flynn	CD-134	8763
42419	7590	03/17/2005	EXAMINER	
PAULEY PETERSEN & ERICKSON			PURVIS, SUE A	
2800 WEST HIGGINS ROAD			ART UNIT	
SUITE 365			PAPER NUMBER	
HOFFMAN ESTATES, IL 60195			1734	

DATE MAILED: 03/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/713,773

Applicant(s)

FLYNN ET AL.

Examiner

Sue A. Purvis

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-14, 16, 17 and 19-25 is/are rejected.
- 7) ☒ Claim(s) 15 and 18 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 June 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 17 Feb 2004.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-4, 6-14, 16, 17, and 19 are rejected under 35 U.S.C. 102(e) as being anticipated by Wien et al. (US Patent No. 6,748,994 B2).

Wien discloses a method for transferring a label portion from a label assembly onto an object. The label (130) is slid within a gap formed between a stripping member (170, 172) and a body member (106) with a support base surface and post (120). The label is positioned on the application area with an adhesive side of the label portion exposed and subsequently the object is contacted with the adhesive side of the label and applied thereto. Once the label is applied, the object is removed with the label portion attached thereto and with a remaining portion of the label assembly being retained by the stripping member. (See Figures 1, 3-5, 14, 122, and 123.)

Regarding claim 2, the stripping members are suspended over the application area of the body member (106).

Regarding claim 3, the label assembly in Wien is positioned between opposing guides connected to the apparatus base.

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Regarding claim 4, the object or disc in Wien is positionable within one of a first guide area defined by a first stripping member (170) and opposing second stripping members (172). The stripping members (170, 172) are connected with respect to the apparatus base surface, and a second guide area defined by the opposing second stripping members. (See generally Figure 1.)

Regarding claim 6, pressure is applied to the object to apply the label portion to the object. (See Figures 4 and 5.)

Regarding claim 7, the label portion in Wien is separated from the remaining label assembly, in particular tabs (604) are removed. (Figures 122 and 123.)

Regarding claim 8, the tabs of the label assembly remains on the apparatus following transfer of the label portion onto the object.

Regarding claim 9, a step of transferring a second label portion from the label assembly onto an object is done later, as can be seen by Figures 14, 122 & 123 the label assembly includes additional portions (616, 624).

Regarding claim 10, most of the features of this claim are substantially detailed above, in addition there is a gap (180, 184) between the stripping member (170) and the base surface. (See Figure 1.)

Regarding claim 11, the label assembly is indexed by means of the stripping members (170, 172).

Regarding claim 12, a portion of a back sheet of the label assembly is removed from a face sheet of the label assembly to expose the label portion. (See Figure 14.)

Regarding claim 13, a pull tab extends from a periphery of the back sheet portion to facilitate removal of the back sheet portion from the face sheet. (Figure 14.)

Regarding claim 14, the label portion comprises one of a standard jewel case spine label and a slim jewel case spine label. (Figures 14, 122, & 123.)

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Regarding claim 16, there are multiple gaps in Wien as shown by Figure 1.

Regarding claim 17, the adhesive side in Wien is exposed when the label is removed from the assembly (see Figure 14) and thus before the label portion is secured between the stripping members.

Regarding claim 19, the object is removed to finish the labeling operation in Wien.

3. Claims 1 and 5 are rejected under 35 U.S.C. 102(e) as being anticipated by Sandor (US Patent No. 6,516,852 B1).

Sandor discloses a method for transferring a label portion from a label assembly onto an object. The method comprises sliding the label assembly within a gap formed between at least one stripping member (37) and an apparatus base surface (29); positioning the label portion within an application area defined on a surface of the apparatus base (29) with an adhesive side of the label portion exposed; positioning the object on the apparatus base and with respect to the label portion; contacting the object with the adhesive side of the label portion to apply the label portion to the object; and removing the object from the apparatus base to transfer the label portion from the label assembly onto the object as a remaining portion of the label assembly is retained by the at least one stripping member.

Regarding claim 5, the area is recessed as seen in Figure 7 and includes a biasing element (40).

4. Claims 20-25 are rejected under 35 U.S.C. 102(b) as being anticipated by Ronngard (WO 2001/28866 A1).

Regarding claim 20, the steps for this independent claim are generally set forth in Figures 1 through 5 of Ronngard. It should be noted that the claim does not include language which would require the method to be performed in the order which the applicant lists the steps. Ronngard discloses a method for transferring a label portion from a label assembly onto an object surface comprising positioning the object (38) in one (6) of a

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plurality of recessed areas (6, 9) formed in a surface of an apparatus base; removing a first portion of a back sheet (32) from a face sheet of the label assembly to expose an adhesive side (42) of the label portion; placing the label assembly into an indexed position with respect to the apparatus and the object surface (Figure 4); positioning the adhesive side of the indexed label portion to contact the object surface (Figure 5); and applying the label portion onto the object surface.

Regarding claim 21, further comprising the step of removing the label assembly from the indexed position to transfer the label portion from the label assembly onto the object surface. (See Figure 5.)

Regarding claim 22, the plurality of recessed areas (6, 9) are formed in an application area defined on the apparatus base surface.

Regarding claim 23, during the step of placing the label assembly into the indexed position, the label assembly is positioned within an application area defined on the apparatus base surface. (See Figure 4.)

Regarding claim 24, in the indexed position, at least a portion of a periphery of the label assembly is positioned with respect to a guide formed on the apparatus base surface. (Figure 4.)

Regarding claim 25, the label portion is removed from the label assembly at tearable lines (28) of separation formed on the label assembly.

Drawings

5. The drawings are objected to because they are generally informal and unclear because they appear to be copies of pictures. Furthermore, the numerals are written by hand and it is unclear what they are supposed to represent. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid

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abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Allowable Subject Matter

6. Claims 15 and 18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

7. The following is an examiner's statement of reasons for allowance: The claims detail a method of labeling which is not taught or suggested by the prior art. In particular claim 15 deals with the labeling of jewel case with the steps of claim 10 where the guide areas are for jewel case spines. Claim 18 requires the adhesive side to be exposed after the label is secured. This feature is shown in Ronngard (used above) but there is no reason to alter Ronngard to use the steps of claim 10, from which claim 18 depends.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany

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the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Listed on attached PTO-892.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sue A. Purvis whose telephone number is (571) 272-1236. The examiner can normally be reached on Monday through Friday 9am to 6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher A. Fiorilla can be reached on (571) 272-1187. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Sue A. Purvis
Primary Examiner
Art Unit 1734

SP
March 13, 2005